

1 for Summary Judgment as Consent to the Granting of Said Motion Pursuant to LR 7-2(d) (#56)
2 on September 13, 2006.

3 Local Rule 7-2(d) provides that "[t]he failure of an opposing party to file points and
4 authorities in response to any motion shall constitute a consent to the granting of the motion."
5 However, "a nonmoving party's failure to comply with local rules does not excuse the moving
6 party's affirmative duty under Rule 56 to demonstrate its entitlement to judgment as a matter
7 of law." See Martinez v. Stanford, 323 F.3d 1178, 1182 (9th Cir. 2003) (citing Fed. R. Civ. P.
8 56).

9 The record reveals that Dreitzer remained Plaintiff's attorney of record until October 11,
10 2006, when the Magistrate Judge issued an Order (#57) granting his Motion to Withdraw.
11 Thus, it remained Dreitzer's responsibility to file a timely response to Defendants' motion on
12 behalf of Plaintiff. In the absence of an opposition, the Court has fully considered Defendants'
13 Motion, the evidence presented, and applicable law. Defendants have affirmatively
14 demonstrated their entitlement to summary judgment by showing that there is no genuine
15 issue of material fact and they are entitled to judgment as a matter of law as to Plaintiff's Title
16 VII claims of racial discrimination. Good cause appearing,

17 IT IS HEREBY ORDERED that Defendant's Request (#56) and Motion for Summary
18 Judgment (#40) are both GRANTED. Having dismissed Plaintiff's federal claims, this Court
19 declines to exercise supplemental jurisdiction over its state law claims of intentional/negligent
20 infliction of emotional distress and negligent supervision/failure to train. See 28 U.S.C. §
21 1367(c)(3); Schneider v. TRW, Inc., 938 F.2d 986, 993 (9th Cir. 1991) (in the usual case in
22 which federal law claims are eliminated before trial, the district court should decline to exercise
23 jurisdiction over the remaining state law claims). Thus, Plaintiff's supplemental state law
24 claims are dismissed without prejudice. The clerk of the court shall enter final judgment
25 accordingly.

26 DATED: This 27th day of November, 2006.

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UNITED STATES DISTRICT JUDGE